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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/552,361

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Ralf Plaumann

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EXAMINER

RIZK, SAMIR WADIE

ART UNIT

PAPER NUMBER

2112

MAIL DATE

DELIVERY MODE

12/31/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/552,361	PLAUMANN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	SAM RIZK	2112	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/3/2005, 4/24/2006</u> .                                    | 6) <input type="checkbox"/> Other: _____                          |

***DETAILED ACTIONS***

- Claims 1-12 have been submitted for examination
- Claims 1-12 have been rejected

***Drawings***

1. Figures 1, 2 and 6 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).  
Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to because Figures 1 and 4 reference characters lack brief description of the intended function as per the specification. The objection to the drawings will not be held in abeyance.

***Claim Objections***

3. Claim 1, line 6 should read: "the ~~the~~ steps of:  
Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1, line 3 recites the limitation "the latter". There is insufficient antecedent basis for this limitation in the claim. The Examiner is not positive which data block is being referred to.
5. Claim 7, line 5 recites the limitation "from latter". There is insufficient antecedent basis for this limitation in the claim. The Examiner is not positive which data block is being referred to.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al. US publication no. 2002/0053058 (Hereinafter lee).
7. In regard to claim 1, Lee teaches:

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- (Currently Amended) A method for determining an error rate in a data transmission from a transmitter/receiver station to a transmitter/receiver device, wherein a first data block and at least one further, redundant data block different from the latter are generated by the transmitter/receiver station from an original data block and, in the event of an error transmission of the first data block, a further, redundant data block is requested by the transmitter/receiver device , comprising the steps of:
  - transmitting a first data block by the transmitter/receiver station;  
(Figure 1 in lee)
  - receiving the first data block by the transmitter/receiver device;  
(Figure 2, step (S10) in Lee)
  - decoding of the first data block received in a decoding block;  
(Figure 2, step (S13) in Lee)
  - checking the first data block for transmission errors;  
(Figure 2, step (S15) in Lee)
  - requesting a further, redundant data block for error correction, if an error is determined in the transmitted data of the first data block;  
(Figure 2, step (S19) in Lee)
  - receiving the request in the transmitter/receiver station;  
(section [0025], lines (17-19) in Lee)
  - retransmission the first data block instead of a redundant data block, and

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(section [0025], lines (17-19) in Lee)

- determining the rate of the incorrectly received first data blocks.

(section [0026] in Lee)

8. In regard to claim 2, Lee teaches:

- (Currently Amended) A method according to claim 1, wherein the first data block and the further, redundant data blocks are generated by convolutional coding with different punctuation schemes.

(Figure 1 in lee)

9. In regard to claim 3, lee teaches:

- (Currently Amended) A method according to claim 2, wherein the punctuation scheme used for the generation of the first data block is determined.

(Figure 1 in lee)

10. In regard to claim 4, Lee teaches:

- (Currently Amended) A method according to claim 1, wherein the different, redundant data blocks are stored in a memory of the transmitter/receiver station and that the first data block stored in a memory position assigned to the first data block is transmitted in the event of a request for the further data block.

(Figure 1, ref. the two "Puncturing" part in lee)

11. In regard to claim 5, Lee teaches;

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- (Currently Amended) A method according to any claim 1, wherein the first data block is also stored in a memory of the transmitter/receiver station instead of the different, redundant data blocks and in their respective memory positions and that the data block stored in the respective memory position is transmitted in the event of a request for a further data block.

(The puncturing (first data block) is stored in one of the puncturing parts and the redundant data block is stored in the second puncturing part and being switched based on NACK I/II decision in figure 1 in Lee)

12. In regard to claim 6, lee Teaches;

- (Currently Amended) A method according claim 1, wherein a further, redundant data block is additionally transmitted by the transmitter/receiver station in the event of a request for a further data block, in order to compare the determined error rate without error correction with an error rate with error correction by incremental redundancy.

(Figure 2, step (S15) and NACK II is sent in Lee)

13. in regard to claim 7, Lee Teaches:

- (Currently Amended) A measuring device for determining an error rate in the event of a data transmission from a transmitter/receiver station to a transmitter/receiver device comprising:

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- a coding block (-3) for generating from an original data block a first data block and at least one further, redundant data block different from latter, and  
(Figure 1 in Lee)
- a selection device for selecting a data block to be transmitted, wherein the first data block is retransmitted by the transmitter/receiver station instead of a redundant data block in response to a request for a further, redundant data block communicated by the transmitter/receiver device to the transmitter/receiver station because of a error transmission of the first data block.

(The puncturing (first data block) is stored in one of the puncturing parts and the redundant data block is stored in the second puncturing part and being switched based on NACK I/II decision in figure 1 in Lee)

14. Claim 8 is rejected for the same reasons as per claim 5.
15. Claim 9 is rejected for the same reasons as per claim 2.
16. Claim 10 is rejected for the same reasons as per claim 2.
17. Claim 11 is rejected for the same reasons as per claim 4.
18. Claim 12 is rejected for the same reasons as per claim 6.



***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Pauls US patent no. 5983382 teaches Automatic retransmission query (ARQ) for generating multiple provisional decoding(s) of data packet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Rizk whose telephone number is (571) 272-8191. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques can be reached on (571) 272-6962. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronics Business Center (EBC) at 866-217-9197 (toll-free)

/Sam Rizk/

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Examiner, Art Unit 2112